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**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION**

EPIC GAMES, INC.

Plaintiff, Counter-defendant

v.

APPLE INC.,

Defendant, Counterclaimant

Case No. 4:20-cv-05640-YGR

**DECLARATION OF MARK A. PERRY IN
 SUPPORT OF APPLE INC.'S
 ADMINISTRATIVE MOTION TO SEAL**

The Honorable Thomas S. Hixson

1 I, Mark A. Perry, hereby declare as follows:

2 1. I am an attorney licensed to practice in the State of California, and a member of the Bar
3 of this Court. I am a partner at the law firm Weil, Gotshal & Manges LLP, counsel of record for Apple
4 Inc. (“Apple”) in this case. I am familiar with Apple’s treatment of highly proprietary and confidential
5 information based on my personal experience representing Apple. I have personal knowledge of the
6 facts stated below and, if called as a witness, would testify competently thereto. I submit this declaration
7 in support of Apple’s Administrative Motion to Seal (the “Motion”).¹

8 2. I am aware that the law of this Circuit allows information to be filed under seal for good
9 cause or in certain compelling circumstances. I also understand that courts routinely seal filings where
10 documents include a company’s trade secrets, internal codenames, confidential research and
11 development, or other commercially sensitive information. I understand that this Court has broad
12 latitude to prevent the public disclosure of these categories of commercially sensitive information.

13 3. Apple operates in an intensely competitive marketplace. Apple has serious and legitimate
14 concerns that competitors will be quick to capitalize on any release of Apple’s highly sensitive
15 information in order to gain competitive advantage. As such, Apple takes extensive measures to protect
16 the confidentiality of its information.

17 4. Apple has carefully reviewed the two discovery dispute letters, regarding relevancy
18 criteria and search terms, and now proposes to partially seal the documents and information therein that,
19 if disclosed, could harm Apple’s competitive business interests.

20 5. Apple seeks to seal this information because disclosure of this competitively-sensitive
21 information regarding its business codenames regarding ongoing confidential projects and internal
22 information about Apple’s ongoing compliance with foreign regulations, which Apple intended to keep
23 confidential, could put Apple at a competitive disadvantage and thus cause it economic harm. Public
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26 ¹ Courts in the Ninth Circuit routinely grant motions to seal based on declarations of counsel. *See*,
27 *e.g.*, *In re Apple Securities Litigation*, 19-cv-02033-YGR, Dkt. 223 (N.D. Cal.); *In re Qualcomm Litig.*,
No. 17-cv-00108-GPC, Dkt. 398-1 (S.D. Cal. Mar. 26, 2018); *Avago Techs. U.S. Inc. v. Iptronics Inc.*,
28 No. 10-cv-02863-EJD, Dkt. 544 (N.D. Cal. Apr. 3, 2015); *Cisco Sys., Inc. v. OpenTV Inc.*, No. 13-cv-
00282-EJD, Dkt. 76 (N.D. Cal. Oct. 8, 2013). If the Court deems this declaration insufficient, Apple
respectfully requests that it be permitted to file a further declaration supporting filing under seal.

disclosure would reveal Apple's internal business decision-making, which could be used by competitors to gain an unfair competitive advantage over Apple.

6. Apple has narrowly-tailored its sealing request as to maximize the public's access to court documents without jeopardizing Apple's business interests. The majority of the discovery letters remain unredacted.

7. Below is a chart detailing the specific portions of the letters that are sealable for the reasons explained herein, as well as in Apple's Motion.

Portion of Document Sought to be Sealed	Document Title	Reason to Seal
Page 1, paragraph 3, beginning after "South Korea" and ending before "By way of example ..."	Joint Statement of Discovery Disputes – Relevance ("Relevance")	Reflects non-public Apple project codenames.
Page 1, first bullet, beginning after "'Wisconsin' project," and ending before "(APL-EG 10679997.)"	Relevance	Reflects non-public information regarding Apple's compliance with foreign regulations.
Page 1, second bullet, beginning after "2024 state that," and ending before "(APL-EG 10678998)."	Relevance	Reflects non-public information regarding Apple's internal projects and codenames.
Pages 1–2, third bullet, beginning after "would have," and ending before "(APL-EG 10676613)"	Relevance	Reflects non-public information regarding Apple's internal projects and codenames.
Page 2, fourth bullet, beginning after "productions thus far," and ending before "On May 31, 2024 ..."	Relevance	Reflects non-public information regarding Apple's internal projects and codenames.
Page 1, paragraph 2, number (2)	Joint Statement of Discovery Disputes – Search Terms ("Search Terms")	Reflects non-public Apple project codenames.
Page 1, note 2	Search Terms	Reflects non-public information regarding Apple's internal projects and codenames.
Page 1, note 3	Search Terms	Reflects non-public Apple project codenames.
Page 4, last paragraph, beginning after "'DMA' and" and ending before "search terms"	Search Terms	Reflects non-public Apple project codenames.
Page 4, beginning after	Search Terms	Reflects non-public

1	“Apple, and” and ending before “ <i>After</i> implementation”		information regarding Apple’s internal projects and codenames.
2			
3	Page 5, first paragraph, beginning after “Because DMA and” and ending before “have no nexus”	Search Terms	Reflects non-public Apple project codenames.
4			
5	Page 5, second indented line, before “As noted, Epic rejected”	Search Terms	Reflects non-public Apple project codenames.
6			

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8 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and

9 correct. Executed this 17th day of July 2024, in Washington, D.C.

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11 /s/ Mark A. Perry

12 Mark A. Perry

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